

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

GILBERT DIAZ,

Plaintiff,

vs.

Civ. No. 00-862 JP/WWD

ALBUQUERQUE, NEW MEXICO POLICE
DEPARTMENT, and APD OFFICERS RAY BACA,
DON McGRATH, INDIVIDUALS PERFORMING
UNAUTHORIZED ACTS WHILE ON OFFICIAL
DUTY, AND OTHERS YET UNNAMED, ALL
INDIVIDUALLY, JOINTLY AND SEVERALLY,

Defendants.

MEMORANDUM OPINION AND ORDER

This matter comes before the Court upon Plaintiff['s] Motion to Compel Discovery of Defendant Don McGrath and for Sanctions filed January 3, 2002 [docket no. 78]. The motion, response, and reply demonstrate an unfortunate level of acrimony and accusation between counsel. Plaintiff's counsel was unable to complete his deposition of Don McGrath in Nashville, Tennessee in a period of five hours. McGrath expressed his willingness to appear for a continuation of the deposition in Albuquerque, New Mexico, where counsel for all parties are located. Since the relief I would have ordered in these circumstances would be for Mr. McGrath to come to Albuquerque to have his deposition continued, I see little reason for intruding further into the street fight being conducted between counsel.

WHEREFORE,

IT IS ORDERED that Plaintiff may take the deposition of Defendant Don McGrath at Plaintiff's attorney's office in Albuquerque, New Mexico, upon reasonable notice, and that McGrath shall be responsible for the expenses in connection with his appearance for the deposition, but not for the deposition itself.

IT IS FURTHER ORDERED that the parties respective prayers for attorney's fees in connection with this motion be, and they are hereby, denied.


UNITED STATES MAGISTRATE JUDGE